

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE MATTER OF:)
COMPLAINT C2012-105)
State Ethics Commission,)
Complainant;)
vs.)
Charles Ray McRae,)
Respondent.)
_____)

BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER

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COMMISSION

This matter comes before the State Ethics Commission by virtue of a complaint filed by the Commission on March 15, 2012. On May 16, 2012, pursuant to S. C. Code Ann. § 8-13-320(10)(i)(Supp. 2011), the State Ethics Commission reviewed the above-captioned complaint charging the Respondent, Charles Ray McRae, with a violation of Section 8-13-1110 and Section 8-13-1308(D) and probable cause was found.

Present at the hearing on July 18, 2012 were Commission Members Phillip Florence, Jr., Chair, Edward E. Duryea, and George Carlton Manley. Respondent was present and appeared *pro se*. Complainant was represented by Cathy L. Hazelwood, General Counsel. The following charges were considered:

COUNT ONE
FAILURE TO FILE A STATEMENT OF ECONOMIC INTEREST REPORT
SECTION 8-13-1110, S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Charles Ray McRae, a Town of Clio council member, did in Richland County, fail to timely file an annual Statement of Economic Interests form on or before April 15, 2011 in violation of Section 8-13-1140.

COUNT TWO
FAILURE TO FILE A PRE-ELECTION CAMPAIGN DISCLOSURE REPORT
SECTION 8-13-1308(D), S.C. CODE ANN., 1976, AS AMENDED

That the Respondent, Charles Ray McRae, a Town of Clio council member, did in Richland County, on or about March 29, 2010, did fail to timely file a pre-election Campaign Disclosure Report in violation of Section of 8-13-1308(D).

FINDINGS OF FACT

Having carefully reviewed the evidence presented, the Commission finds as fact

1. The Respondent, Charles Ray McRae, is a member of Clio Town Council and he is required to file an annual Statement of Economic Interests form (SEI) prior to April 15th of each year and as a candidate he is required to file a pre-election campaign disclosure form 15 days before an election and a pre-election CD 15 days before the election.

2. Kristin Smith, administrative coordinator of the Commission's non-compliance office, testified that Respondent filed an SEI stating he was a candidate for Clio Town Council in an April 13, 2010 election. Respondent was penalized in a December 21, 2011 letter for failure to file his 2011 SEI and failure to file a pre-election CD. That letter was re-sent certified on January 30, 2012 and was delivered on February 8, 2012. On April 4, 2012 Respondent complied by filing his 2011 SEI and CD. The outstanding late-filing penalty of \$7,600.00 was not paid at that time.

3. Respondent testified that he gave his information to the town clerk to fix it, but he did not know that he was suppose to file annually. He was confused about the two different forms that needed to be filed. Only after speaking to the Commission investigator did Respondent realize he had two different forms due and that he should speak to Sandra McClellan. Once he did that he came into compliance.

Based upon the Findings of Fact, the Commission concludes, as a matter of law:

1. During all times relevant, the Respondent, Charles Ray McRae, was a public official, as defined by Section 8-13-100(27).

2. The State Ethics Commission has personal and subject matter jurisdiction

3. Section 8-13-1308(D)(1) provides:

At least fifteen days before an election, a certified campaign report must be filed showing contributions of more than one hundred dollars and expenditures to or by the candidate or committee for the period ending twenty days before the election. The candidate or committee must maintain a current list during the period before the election commencing at the beginning of the calendar quarter of the election of all contributions of more than one hundred dollars. The list must be open to public inspection upon request.

4. Sections 8-13-1110 and 8-13-1140 provide that certain public officials shall file a Statement of Economic Interests at the time of assuming the duties of the position and annually thereafter prior to April 15.

5. Section 8-13-1510(1) provides as follows:

Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows:

(1) a fine of one hundred dollars if not filed within five days after the established deadline provided by law in this chapter;

(2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

DECISION

NOW, THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the State Ethics Commission has determined based upon a preponderance of evi-

dence that Respondent Charles Ray McRae is in violation of Section 8-13-1110; and therefore, Respondent Charles Ray McRae is hereby assessed a reduced late-filing penalty of \$200.00 to be paid within 90 days of receipt of the order. If the reduced late-filing penalty of \$200.00 is not paid within 90 days of receipt of the order, then the late-filing penalty will revert to the full amount of \$7,600.00.

IT IS FURTHER ORDERED, pursuant to Section 8-13-320, a Judgment in the amount of \$7,600.00 is, and shall be entered against Respondent, if he fails to pay within the time permitted.

IT IS FURTHER THE ORDER OF THIS COMMISSION that the Clerk of Court of the County in which Respondent was last known to reside shall enter this Order in its Judgment Rolls, without cost to the State Ethics Commission, in the amount of \$7,600.00 upon the Commission's filing of same with the Clerk of Court's Office.

FINALLY, Respondent Charles Ray McRae has ten (10) days from receipt of this order to appeal this Decision and Order to the full Commission.

IT IS SO ORDERED THIS 15th DAY OF Aug., 2012.

STATE ETHICS COMMISSION



PHILLIP FLORENCE, JR.
CHAIRMAN

COLUMBIA, SOUTH CAROLINA